IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. DONNA M. PRESZLER, Defendant.	Case No. 13-06010-01-CR-SJ-FJG

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure, the parties described below have entered into the following plea agreement:

1. The Parties. The parties to this agreement are the United States Attorney's Office for the Western District of Missouri (otherwise referred to as "the Government" or "the United States"), represented by Tammy Dickinson, United States Attorney, and Jess E. Michaelsen, Assistant United States Attorney, and the defendant, Donna M. Preszler ("the defendant"), represented by John M. Lynch.

The defendant understands and agrees that this plea agreement is only between her and the United States Attorney for the Western District of Missouri, and that it does not bind any other federal, state, or local prosecution authority or any other government agency, unless otherwise specified in this agreement.

2. Defendant's Guilty Plea. The defendant agrees to and hereby does plead guilty to Count Six of the Superseding Indictment charging her with a violation of 18 U.S.C. § 1343, that is, wire fraud; Count Twenty of the Superseding Indictment charging her with a violation of 18 U.S.C. § 1957, that is, engaging in a monetary transaction in property derived from a specified unlawful activity; and Count Twenty-One of the Superseding Indictment charging her with a violation of 26 U.S.C. § 7206, that is, filing a false income tax return. The defendant also agrees to forfeit to the United States the property described in the forfeiture allegation of the superseding indictment. By entering into this plea agreement, the defendant admits that she knowingly committed these offenses, and is in fact guilty of these offenses.

3. Factual Basis for Guilty Plea. The parties agree that the facts constituting the offenses to which she is pleading guilty are as follows:

DONNA M. PRESZLER was employed at Burdg, Dunham & Associates Construction Corp. ("BDA") as Accounting Manager from 2004 until June 2012. PRESZLER'S duties as Accounting Manager with BDA included overseeing the entire accounting department including payroll, accounts receivable and accounts payable. BDA is a General Contractor specializing in retail construction of malls, strip centers, family life centers, and other stand-alone projects, located in Hamilton, Missouri.

BDA maintained bank accounts with Citizens Bank and Trust and with Bethany Trust Company Bank (BTC Bank), which were utilized by BDA for payroll payments to its employees. Citizens Bank and Trust is located in Chillicothe, Missouri, and BTC Bank is located in Bethany, Missouri. BTC Bank is a member and insured depository institution of the FDIC.

BDA utilized construction accounting computer software from Foundation Software Inc. to maintain and account for its weekly employee payroll. The payroll software was used to create weekly ACH (Automated Clearing House) data upload files that would be uploaded via the internet to FreedomWare, LLC's servers.

FreedomWare, LLC was a business that provided online data storage services to BTC Bank and BDA. FreedomWare, LLC electronically received BDA's weekly payroll ACH data upload files via the internet, which were stored for processing on computer servers utilized by FreedomWare, LLC and located in New York.

From approximately June 30, 2006 through June 15, 2012, in the Western District of Missouri and elsewhere, DONNA M. PRESZLER knowingly executed a scheme and artifice to defraud and to obtain money, funds, and credits and other property owned by and under the custody and control of BDA by means of material false and fraudulent pretenses, representations, and promises.

DONNA M. PRESZLER initiated ACH wire transfers of money from BDA's payroll accounts with Citizens Bank and Trust and BTC Bank, to her personal bank accounts with Citizens Bank and Trust and Chillicothe State Bank and to bank accounts with Altaone Federal Credit Union without the knowledge, authorization or consent of BDA.

DONNA M. PRESZLER utilized BDA's accounting software to create BDA's weekly ACH payroll data upload files that contained unauthorized false and fictitious payments to her bank accounts and others. DONNA M. PRESZLER utilized the internet to log onto BDA's account with FreedomWare, LLC and upload the weekly ACH payroll data files to FreedomWare, LLC's servers, which were then processed by BTC Bank.

DONNA M. PRESZLER utilized her role as Accounting Manager to add false and fictitious overtime hours and overtime pay to her weekly payroll and then initiated BDA's weekly payroll transfers with her false and fictitious overtime payments. From November 2004 through June 2006, DONNA M. PRESZLER initiated approximately $76,000 in unauthorized overtime payments to herself in this manner, which were subject to BDA withholding income taxes. From 2004 through 2012, DONNA M. PRESZLER received from BDA's payroll system a total of $137,121.88 in overtime payments.

DONNA M. PRESZLER utilized her role as Accounting Manager to add false and fictitious non-taxable pay, such as expense reimbursement, to her weekly direct deposits and then initiated BDA's weekly payroll transfers with her false and fictitious expense reimbursements to herself. DONNA M. PRESZLER began unauthorized transfers in this manner in June 2006, and continued until June 2012, with a total of approximately $3,912,000 in false and fictitious non-taxable payroll transfers to herself and her family

DONNA M. PRESZLER concealed her transfers by password protecting her payroll information, creating false and fictitious expense accounts and otherwise manipulating BDA's payroll and accounting records.

DONNA M. PRESZLER fraudulently transferred without the knowledge, authorization or consent of BDA at least $3.9 million from BDA's payroll accounts with Citizens Bank and Trust and BTC Bank, to her personal bank accounts with Citizens Bank and Trust and Chillicothe State Bank and to a bank account with Altaone Federal Credit Union for her own personal benefit and the benefit of others.

On or about June 13, 2012, in the Western District of Missouri, defendant DONNA M. PRESZLER, for the purpose of executing scheme and artifice to defraud and to obtain money and property from BDA, knowingly caused to be transmitted in interstate commerce, by means of a wire communication, certain signals, to wit: a weekly ACH payroll data file sent via wire transfer on the internet from BDA in Hamilton, Missouri, to FreedomWare, LLC's computer servers in New York, to initiate and process a $35,000 false and fictitious weekly ACH payment from BDA's bank account to DONNA M. PRESZLER's personal bank accounts and others.

On or about June 22, 2012, in the Western District of Missouri, defendant DONNA M. PRESZLER, knowingly engaged in a monetary transaction, in or affecting interstate commerce, in criminally derived property of a value greater than $10,000 with the funds represented by the transaction having been derived from a specified unlawful activity, that is, wire fraud in violation of 18 U.S.C. § 1343, and defendant DONNA M. PRESZLER knew the monetary transaction involved proceeds of a criminal offense, and so knowing she caused a monetary transaction to take place, that is, the issuance of a Citizen Bank and Trust Cashier's Check No. 200860, dated June 22, 2012, in the amount of $148,389.14 payable to Chillicothe State Bank Loan No. ##512.

For tax years 2007 through 2012, DONNA M. PRESZLER and TERRANCE W. PRESZLER filed their federal income tax returns jointly as husband and wife. During those tax years DONNA M. and TERRANCE W. PRESZLER failed to report the fraudulently obtained funds from BDA on their federal income tax returns submitted to the IRS for each year as follows:

Tax Year	**Unreported Fraudulent Income from BDA**	**Additional Tax Due & Owing**
2007	$125,000	$31,973
2008	$357,000	$107,889
2009	$520,000	$165,965
2010	$755,000	$243,805
2011	$1,305,000	$433,417
2012	$805,000	$253,641
Totals	**$3,867,000**	**$1,236,690**

DONNA M. and TERRANCE W. PRESZLER knew that the above fraudulently obtained income they received from BDA should have been reported as income on their federal income tax returns or they were aware that there was a high probability that it should have been and they deliberately avoided confirming the truth.

On or about February 19, 2013, in the Western District of Missouri, defendant DONNA M. PRESZLER, a resident of Chillicothe, Missouri, who was married during the calendar year 2012, did willfully make, subscribe and file with the Internal Revenue Service a Form 1040 for the tax year 2012, which was verified by written declaration that it was made under the penalties of perjury, which she did not believe to be true and correct as to every material matter, to wit: that for 2012 her and her spouse's Total Income was $46,863.00, whereas, as she then and there knew and believed, her and her spouse's Total Income, including the embezzled funds, was actually $851,863.00.

The defendant agrees that the property described in the Forfeiture Allegation of the superseding indictment, that is, a money judgment in the amount of $3,912,000, (reduced by the value of any assets directly transferred to the victims) the listed real property, the listed personal property, and all funds seized from the listed bank accounts and funeral trust accounts, is property that is subject to forfeiture by the United States, in that the property constitutes and is derived from criminal proceeds of the above-described criminal activity and is therefore subject to forfeiture.

4. Use of Factual Admissions and Relevant Conduct. The defendant acknowledges, understands and agrees that the admissions contained in Paragraph 3 and other portions of this plea agreement will be used for the purpose of determining her guilt and advisory sentencing range under the United States Sentencing Guidelines ("U.S.S.G."), including the calculation of the defendant's offense level in accordance with U.S.S.G. § 1B1.3(a)(2). The defendant acknowledges, understands and agrees that the conduct charged in any dismissed counts of the superseding indictment as well as all other uncharged related criminal activity may be considered as "relevant conduct" pursuant to U.S.S.G. § 1B1.3(a)(2) in calculating the offense level for the charges to which she is pleading guilty.

5. Statutory Penalties. The defendant understands that upon her plea of guilty to Count Six of the Superseding Indictment charging her with wire fraud in violation of 18 U.S.C. § 1343, the maximum penalty the Court may impose is not more than 20 years of imprisonment, a $250,000 fine, three years of supervised release, an order of restitution and a $100 mandatory special assessment per felony count of conviction which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class C felony.

The defendant understands that upon her plea of guilty to Count 20 of the Superseding Indictment charging her with engaging in a monetary transaction in property derived from a specified unlawful activity in violation of 18 U.S.C. § 1957, the maximum penalty the Court may impose is not more than 10 years of imprisonment, a $250,000 fine, three years of supervised release, an order of restitution and a $100 mandatory special assessment per felony count of conviction which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class C felony.

The defendant understands that upon her plea of guilty to Count 21 of the Superseding Indictment charging her with filing a false income tax return in violation of 26 U.S.C. § 7206, the maximum penalty the Court may impose is not more than three years of imprisonment, a $100,000 fine, one year of supervised release, an order of restitution and a $100 mandatory special assessment per felony count of conviction which must be paid in full at the time of sentencing. The defendant further understands that this offense is a Class E felony.

6. Sentencing Procedures. The defendant acknowledges, understands and agrees to the following:

a. in determining the appropriate sentence, the Court will consult and consider the United States Sentencing Guidelines promulgated by the United States Sentencing Commission; these Guidelines, however, are advisory in nature, and the Court may impose a sentence either less than or greater than the defendant's applicable Guidelines range, unless the sentence imposed is "unreasonable";

b. the Court will determine the defendant's applicable Sentencing Guidelines range at the time of sentencing;

c. in addition to a sentence of imprisonment, the Court may impose a term of supervised release of up to three years; that the Court must impose a period of supervised release if a sentence of imprisonment of more than one year is imposed;

d. if the defendant violates a condition of her supervised release, the Court may revoke her supervised release and impose an additional period of imprisonment of up to three years without credit for time previously spent on supervised release. In addition to a new term of imprisonment, the Court also may impose a new period of supervised release, the length of which cannot exceed three years, less the term of imprisonment imposed upon revocation of the defendant's first supervised release;

e. the Court may impose any sentence authorized by law, including a sentence that is outside of, or departs from, the applicable Sentencing Guidelines range;

f. any sentence of imprisonment imposed by the Court will not allow for parole;

g. the Court is not bound by any recommendation regarding the sentence to be imposed or by any calculation or estimation of the Sentencing Guidelines range offered by the parties or the United States Probation Office;

h. the defendant may not withdraw her guilty plea solely because of the nature or length of the sentence imposed by the Court;

i. The defendant agrees that the United States may institute civil, judicial or administrative forfeiture proceedings against all forfeitable assets in which the defendant has an interest, and that she will not contest any such forfeiture proceedings;

j. The defendant agrees to forfeit all interests she owns or over which she exercises control, directly or indirectly, in any asset that is subject to forfeiture to the United States either directly or as a substitute for property that was subject to forfeiture but is no longer available for the reasons set forth in 21 U.S.C. § 853(p) (which is applicable to this action pursuant to 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c), etc., including but not limited to the following specific property: a money judgment in the amount of $3,912,000 (reduced by the value of any assets directly transferred to the victims); real property listed in the superseding indictment; personal property listed in the superseding indictment, and funds seized from the bank accounts and funeral trust accounts listed in the superseding indictment. With respect to any asset which the defendant has agreed to forfeit, the defendant waives any constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this plea agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment under the Eighth Amendment to the United States Constitution;

k. The defendant agrees to fully and truthfully disclose the existence, nature and location of all assets forfeitable to the United States, either directly or as a substitute asset, in which she, her co-defendants and her co-conspirators have or had any direct or indirect financial interest, or exercise or exercised control, directly or indirectly, during the period from 2004 to the present. The defendant also agrees to fully and completely assist the United States in the recovery and forfeiture of all such forfeitable assets;

l. The defendant agrees to take all necessary steps to comply with the forfeiture matters set forth herein before her sentencing;

m. In the event any federal, state or local law enforcement agency having custody of the property decides not to pursue forfeiture of the property due to its minimal value, the defendant hereby abandons any interest she has in such property and consents to the destruction or any other disposition of the property by the federal, state or local agency without further notice or obligation whatsoever owing to the defendant; and

n. Within 10 days of the execution of this plea agreement, at the request of the USAO, the defendant agrees to execute and submit (1) a Tax Information Authorization form; (2) an Authorization to Release Information; (3) a completed financial disclosure statement; and (4) copies of financial information that the defendant submits to the U.S. Probation Office. The defendant understands that the United States will use the financial information when making its recommendation to the Court regarding the defendant's acceptance of responsibility.

7. Government's Agreements. Based upon evidence in its possession at this time, the United States Attorney's Office for the Western District of Missouri, as part of this plea agreement, agrees not to bring any additional charges against defendant for any federal criminal offenses related to the fraudulent embezzlement scheme for which it has venue and which arose out of the defendant's conduct described above. The United States agrees to recommend that the Court order the sentences imposed for Counts Six, Twenty and Twenty-One of the Superseding Indictment be run concurrent to each other. Additionally, the United States Attorney for the Western District of Missouri agrees to dismiss Counts One through Five and Counts Seven through Nineteen at sentencing.

The defendant understands that this plea agreement does not foreclose any prosecution for an act of murder or attempted murder, an act or attempted act of physical or sexual violence against the person of another, or a conspiracy to commit any such acts of violence or any criminal activity of which the United States Attorney for the Western District of Missouri has no knowledge.

The defendant recognizes that the United States' agreement to forego prosecution of all of the criminal offenses with which the defendant might be charged is based solely on the promises made by the defendant in this agreement. If the defendant breaches this plea agreement, the United States retains the right to proceed with the original charges and any other criminal violations established by the evidence. The defendant expressly waives her right to challenge the initiation of the dismissed or additional charges against her if she breaches this agreement. The defendant expressly waives her right to assert a statute of limitations defense if the dismissed or additional charges are initiated against her following a breach of this agreement. The defendant further understands and agrees that if the Government elects to file additional charges against her following her breach of this plea agreement, she will not be allowed to withdraw her guilty plea.

8. Preparation of Presentence Report. The defendant understands the United States will provide to the Court and the United States Probation Office a government version of the offense conduct. This may include information concerning the background, character, and conduct of the defendant, including the entirety of her criminal activities. The defendant understands these disclosures are not limited to the counts to which she has pleaded guilty. The United States may respond to comments made or positions taken by the defendant or the defendant's counsel and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject only to any limitations set forth in this plea agreement. The United States and the defendant expressly reserve the right to speak to the Court at the time of sentencing pursuant to Rule 32(i)(4) of the Federal Rules of Criminal Procedure.

9. Withdrawal of Plea. Either party reserves the right to withdraw from this plea agreement for any or no reason at any time prior to the entry of the defendant's plea of guilty and its formal acceptance by the Court. In the event of such withdrawal, the parties will be restored to their pre-plea agreement positions to the fullest extent possible. However, after the plea has been formally accepted by the Court, the defendant may withdraw her pleas of guilty only if the

Court rejects the plea agreement or if the defendant can show a fair and just reason for requesting the withdrawal. The defendant understands that if the Court accepts her plea of guilty and this plea agreement but subsequently imposes a sentence that is outside the defendant's applicable Sentencing Guidelines range, or imposes a sentence that the defendant does not expect, like or agree with, she will not be permitted to withdraw her plea of guilty.

10. Agreed Guidelines Applications. With respect to the application of the Sentencing Guidelines to this case, the parties stipulate and agree as follows:

a. The Sentencing Guidelines do not bind the Court and are advisory in nature. The Court may impose a sentence that is either above or below the defendant's applicable Guidelines range, provided the sentence imposed is not "unreasonable";

b. The applicable Guidelines sections for Counts Six and Twenty are U.S.S.G. § 2B1.1(a)(1) and 2S1.1(a)(1), which provide for a base offense level of 7;

c. The parties agree that the defendant is subject to an 18-level enhancement for the amount of loss being greater than $2.5 million and less than $7 million pursuant to U.S.S.G. §§ 2B1.1(b)(1)(J) and 2S1.1(a)(1);

d. The parties agree that the defendant is subject to a one-level enhancement for a conviction of a violation of 18 U.S.C. § 1957 pursuant to U.S.S.G. § 2S1.1(b)(2)(A);

e. The parties agree that the defendant is subject to a two-level enhancement for abuse of a position of private trust pursuant to U.S.S.G. § 3B1.3;

f. The applicable Guidelines sections for Count Twenty-One, filing a false income tax return are U.S.S.G. §§ 2T1.1 and 2T4.1(I), which provides for a base offense level of 22;

g. The parties agree that the defendant is subject to a two-level enhancement for failing to report or correctly identify the source of income exceeding $10,000 in any year from criminal activity pursuant to U.S.S.G. § 2T1.1(b)(1);

h. The parties agree that the defendant is subject to a two-level adjustment in determining the combined offense level pursuant to U.S.S.G. § 3D1.4;

i. The defendant has admitted her guilt and clearly accepted responsibility for her actions, and has assisted authorities in the investigation or prosecution of her own misconduct by timely notifying authorities of her intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Government and the Court to allocate their resources efficiently. Therefore, she is entitled to a three-level reduction pursuant to § 3E1.1(b) of the Sentencing Guidelines, unless the defendant (1) fails to abide by all of the terms and conditions of this plea agreement and her pretrial release; or (2) attempts to withdraw her guilty pleas, violates the law, or otherwise engages in conduct inconsistent with her acceptance of responsibility;

j. The parties agree that the Court will determine her applicable criminal history category after receipt of the presentence investigation report prepared by the United States Probation Office;

k. The defendant understands that the estimate of the parties with respect to the Guidelines computation set forth in the subsections of this paragraph does not bind the Court or the United States Probation Office with respect to the appropriate Guidelines levels. Additionally, the failure of the Court to accept these stipulations will not, as outlined in Paragraph 9 of this plea agreement, provide the defendant with a basis to withdraw her plea of guilty;

l. The parties further agree that either party may request a sentence above or below the U.S. Sentencing Guidelines range (combination of Total Offense Level and Criminal History Category) ultimately determined by the Court pursuant to any chapter of the Guidelines, Title 18, United States Code, Section 3553, or any other provision or rule of law not addressed herein;

m. The defendant consents to judicial fact-finding by a preponderance of the evidence for all issues pertaining to the determination of the defendant's sentence, including the determination of any mandatory minimum sentence (including the facts that support any specific offense characteristic or other enhancement or adjustment), and any legally authorized increase above the normal statutory maximum. The defendant waives any right to a jury determination beyond a reasonable doubt of all facts used to determine and enhance the sentence imposed, and waives any right to have those facts alleged in the superseding indictment. The defendant also agrees that the Court, in finding the facts relevant to the imposition of sentence, may consider any reliable information, including hearsay; and

n. The defendant understands and agrees that the factual admissions contained in Paragraph 3 of this plea agreement, and any admissions that she will make during her plea colloquy, support the imposition of the agreed-upon Guidelines calculations contained in this agreement.

11. Effect of Non-Agreement on Guidelines Applications. The parties understand, acknowledge and agree that there are no agreements between the parties with respect to any Sentencing Guidelines issues other than those specifically listed in Paragraph 10, and its subsections. As to any other Guidelines issues, the parties are free to advocate their respective positions at the sentencing hearing.

12. Change in Guidelines Prior to Sentencing. The defendant agrees that if any applicable provision of the Guidelines changes after the execution of this plea agreement, then any request by defendant to be sentenced pursuant to the new Guidelines will make this plea agreement voidable by the United States at its option. If the Government exercises its option to void the plea agreement, the United States may charge, reinstate, or otherwise pursue any and all criminal charges that could have been brought but for this plea agreement.

13. Government's Reservation of Rights. The defendant understands that the United States expressly reserves the right in this case to:

a. oppose or take issue with any position advanced by defendant at the sentencing hearing which might be inconsistent with the provisions of this plea agreement;

b. comment on the evidence supporting the charges in the superseding indictment;

c. oppose any arguments and requests for relief the defendant might advance on an appeal from the sentences imposed and that the United States remains free on appeal or collateral proceedings to defend the legality and propriety of the sentence actually imposed, even if the Court chooses not to follow any recommendation made by the United States; and

d. oppose any post-conviction motions for reduction of sentence, or other relief.

14. Waiver of Constitutional Rights. The defendant, by pleading guilty, acknowledges that she has been advised of, understands, and knowingly and voluntarily waives the following rights:

a. the right to plead not guilty and to persist in a plea of not guilty;

b. the right to be presumed innocent until her guilt has been established beyond a reasonable doubt at trial;

c. the right to a jury trial, and at that trial, the right to the effective assistance of counsel;

d. the right to confront and cross-examine the witnesses who testify against her;

e. the right to compel or subpoena witnesses to appear on her behalf; and

f. the right to remain silent at trial, in which case her silence may not be used against her.

The defendant understands that by pleading guilty, she waives or gives up those rights and that there will be no trial. The defendant further understands that if she pleads guilty, the Court may ask her questions about the offense or offenses to which she pleaded guilty, and if the defendant answers those questions under oath and in the presence of counsel, her answers may later be used against her in a prosecution for perjury or making a false statement. The defendant also understands she has pleaded guilty to a felony offense and, as a result, will lose her right to possess a firearm or ammunition and might be deprived of other rights, such as the right to vote or register to vote, hold public office, or serve on a jury.

15. Waiver of Appellate and Post-Conviction Rights.

a. The defendant acknowledges, understands and agrees that by pleading guilty pursuant to this plea agreement she waives her right to appeal or collaterally attack a finding of guilt following the acceptance of this plea agreement, except on grounds of (1) ineffective assistance of counsel; or (2) prosecutorial misconduct.

b. The defendant expressly waives her right to appeal her sentence, directly or collaterally, on any ground except claims of (1) ineffective assistance of counsel; (2) prosecutorial misconduct; or (3) an illegal sentence. An "illegal sentence" includes a sentence imposed in excess of the statutory maximum, but does *not* include less serious sentencing errors, such as a misapplication of the Sentencing Guidelines, an abuse of discretion, or the imposition of an unreasonable sentence. However, if the United States exercises its right to appeal the sentence imposed as authorized by 18 U.S.C. § 3742(b), the defendant is released from this waiver and may, as part of the Government's appeal, cross-appeal her sentence as authorized by 18 U.S.C. § 3742(a) with respect to any issues that have not been stipulated to or agreed upon in this agreement.

16. Financial Obligations. By entering into this plea agreement, the defendant represents that she understands and agrees to the following financial obligations:

a. The Court must order restitution to the victims of the offense to which the defendant is pleading guilty, that is $3,912,000 (reduced by value of any assets signed directly over to the victims) to Burdg, Dunham & Associates Construction Corp., and $1,236,690 to the IRS - RACS, Attn: Mail Stop 6261, Restitution, 333 W. Pershing Ave., Kansas City, Missouri 64108. The defendant agrees that the Court may order restitution in connection with the conduct charged in any counts of the superseding indictment which are to be dismissed and all other uncharged related criminal activity.

b. The defendant understands that if the Court orders the defendant to pay restitution to the IRS for the failure to pay tax, either directly as part of the sentence or as a condition of supervised release, the IRS will use the restitution order as the basis for a civil assessment. See 26 U.S.C. § 6201(a)(4). The defendant does not have the right to challenge the amount of this assessment. See 26 U.S.C. § 6201(a)(4)(C). Neither the existence of a restitution payment schedule nor the defendant's timely payment of restitution according to that schedule will preclude the IRS from administrative collection of the restitution-based assessment, including levy and distraint under 26 U.S.C. § 6331.

c. The United States may use the Federal Debt Collection Procedures Act and any other remedies provided by law to enforce any restitution order that may be entered as part of the sentence in this case and to collect any fine.

d. The defendant will fully and truthfully disclose all assets and property in which she has any interest, or over which the defendant exercises control directly or indirectly, including assets and property held by a spouse, nominee or other third party. The defendant's disclosure obligations are ongoing, and are in force from the execution of this agreement until the defendant has satisfied the restitution order in full.

e. Within 10 days of the execution of this plea agreement, at the request of the USAO, the defendant agrees to execute and submit (1) a Tax Information Authorization form; (2) an Authorization to Release Information; (3) a completed financial disclosure statement; and (4) copies of financial information that the defendant submits to the U.S. Probation Office. The defendant understands that compliance with these requests will be taken into account when the United States makes a recommendation to the Court regarding the defendant's acceptance of responsibility.

f. The defendant hereby authorizes the USAO to obtain a credit report pertaining to her to assist the USAO in evaluating the defendant's ability to satisfy any financial obligations imposed as part of the sentence.

g. The defendant understands that a Special Assessment will be imposed as part of the sentence in this case. The defendant promises to pay the Special Assessment of $300 by submitting a satisfactory form of payment to the Clerk of the Court prior to appearing for the sentencing proceeding in this case. The defendant agrees to provide the Clerk's receipt as evidence of her fulfillment of this obligation at the time of sentencing.

h. The defendant certifies that she has made no transfer of assets or property for the purpose of (1) evading financial obligations created by this Agreement; (2) evading obligations that may be imposed by the Court; nor (3) hindering efforts of the USAO to enforce such financial obligations. Moreover, the defendant promises that she will make no such transfers in the future.

i. In the event the United States learns of any misrepresentation in the financial disclosure statement, or of any asset in which the defendant had an interest at the time of this plea agreement that is not disclosed in the financial disclosure statement, and in the event such misrepresentation or nondisclosure changes the estimated net worth of the defendant by ten thousand dollars ($10,000) or more, the United States may at its option: (1) choose to be relieved of its obligations under this plea agreement; or (2) let the plea agreement stand, collect the full forfeiture, restitution, and fines imposed by any criminal or civil judgment, and also collect 100% (one hundred percent) of the value of any previously undisclosed assets. The defendant agrees not to contest any collection of such assets. In the event the United States opts to be relieved of its obligations under this plea agreement, the defendant's previously entered pleas of guilty shall remain in effect and cannot be withdrawn.

17. Waiver of FOIA Request. The defendant waives all of her rights, whether asserted directly or by a representative, to request or receive, or to authorize any third party to request or receive, from any department or agency of the United States any records pertaining to the investigation or prosecution of this case including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a.

18. Waiver of Claim for Attorney's Fees. The defendant waives all of her claims under the Hyde Amendment, 18 U.S.C. § 3006A, for attorney's fees and other litigation expenses arising out of the investigation or prosecution of this matter.

19. Defendant's Breach of Plea Agreement. If the defendant commits any crimes, violates any conditions of release, or violates any term of this plea agreement between the signing of this plea agreement and the date of sentencing, or fails to appear for sentencing, or if the defendant provides information to the Probation Office or the Court that is intentionally misleading, incomplete, or untruthful, or otherwise breaches this plea agreement, the United States will be released from its obligations under this agreement. The defendant, however, will remain bound by the terms of the agreement, and will not be allowed to withdraw her plea of guilty.

The defendant also understands and agrees that in the event she violates this plea agreement, all statements made by her to law enforcement agents subsequent to the execution of this plea agreement, any testimony given by her before a grand jury or any tribunal or any leads from such statements or testimony shall be admissible against her in any and all criminal proceedings. The defendant waives any rights that she might assert under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that pertains to the admissibility of any statements made by her subsequent to this plea agreement.

20. Defendant's Representations. The defendant acknowledges that she has entered into this plea agreement freely and voluntarily after receiving the effective assistance, advice and approval of counsel. The defendant acknowledges that she is satisfied with the assistance of counsel, and that counsel has fully advised her of her rights and obligations in connection with this plea agreement. The defendant further acknowledges that no threats or promises, other than the promises contained in this plea agreement, have been made by the United States, the Court, her attorneys or any other party to induce her to enter her plea of guilty.

21. No Undisclosed Terms. The United States and defendant acknowledge and agree that the above-stated terms and conditions, together with any written supplemental agreement that might be presented to the Court in camera, constitute the entire plea agreement between the parties, and that any other terms and conditions not expressly set forth in this agreement or any written supplemental agreement do not constitute any part of the parties' agreement and will not be enforceable against either party.

22. Standard of Interpretation. The parties agree that, unless the constitutional implications inherent in plea agreements require otherwise, this plea agreement should be interpreted according to general contract principles and the words employed are to be given their normal and ordinary meanings. The parties further agree that, in interpreting this agreement, any drafting errors or ambiguities are not to be automatically construed against either party, whether or not that party was involved in drafting or modifying this agreement.

Tammy Dickinson
United States Attorney

Dated: 2/13/14

/s/Jess E. Michaelsen
Jess E. Michaelsen
Assistant United States Attorney

I have consulted with my attorney and fully understand all of my rights with respect to the offenses charged in the superseding indictment. Further, I have consulted with my attorney and fully understand my rights with respect to the provisions of the Sentencing Guidelines. I have read this plea agreement and carefully reviewed every part of it with my attorney. I understand this plea agreement and I voluntarily agree to it. I am aware that my attorney also represents my husband and co-defendant Terrance W. Preszler. I understand that I have a right to effective assistance of counsel, to include representation by separate counsel if I so desire. I have consulted with my counsel regarding any possible conflicts of interest that may be caused by joint representation and I hereby waive any potential conflicts and waive my right to separate counsel in this case.

Dated: 2/13/14

/s/Donna M. Preszler
Donna M. Preszler
Defendant

I am defendant Donna M. Preszler's attorney. I have fully explained to her her rights with respect to the offenses charged in the Superseding Indictment. Further, I have reviewed with her the provisions of the Sentencing Guidelines which might apply in this case. I have carefully reviewed every part of this plea agreement with her. To my knowledge, Donna M. Preszler's decision to enter into this plea agreement is an informed and voluntary one. I also represent co-defendant, Terrance W. Preszler. I have explained to both clients that they have a right to effective assistance of counsel, to include representation by separate counsel if they so desire. I have explained to both clients any possible conflicts of interest that may be caused by the joint representation and they have agreed to waive any potential conflicts and agreed to waive their right to separate counsel in this case. Further, I believe that there is good cause to believe that no conflict of interest is likely to arise from this joint representation.

Dated: 2/13/14

/s/John M. Lynch
John M. Lynch
Attorney for Defendant Donna M. Preszler

jem/sgs